NEWS NOTES

OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

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Philadelphia, Pa.

QUAKER C.O. DENIED PAROLE

LETTER TO A MOTHER

UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES BOARD OF PAROLE
WASHINGTON

May 5, 1949

Mrs. Corona R. Cook,
658 Riverside Street,
Portland, Maine.

My Dear Mrs. Cook:

The Board has asked me to thank you for your communication concerning the application for parole of your son, Ralph E. Cook, N. 6691-CT.

I regret to have to inform you that the Board feels favorable parole consideration should not be granted at this time and the application has been denied.

The Board wants you to know that they are grateful to you for your interest. The case will be subject to review from time to time. Your letter is being placed with the other data in our files. You may be sure that the information which you submi. will have the interested, sympathetic attention of the Board when the case is studied again.

Respectfully yours,

/s/ Walter K. Urich P.

Parole Executive

Move to Push for Amnesty Gathers Momentum

When 19-year-old Ralph Cook, son of a Maine Quaker minister, was sentenced to two years in prison on last September 28, he became the first C.O. imprisoned under the 1948 draft law. As a pre-divinity student at Earlham College, he was preparing to follow his father's calling at the time of his arrest.

Upon completion of eight months, or one-third of his sentence, Cook became eligible for parole. As this has been denied, he will now have to remain in prison (unless the Board changes its mind in the interval) until early May, 1950. He will receive 144 days "good time" off his sentence.

The mimeographed letter at left, in which only the names were filled in and in which the Board expresses its gratitude for a mother's interest in her son, is not the only clew to reasons for the denial of Cook's parole. A letter to a member of Congress about the case from one of the Parole Board members indicates three reasons why this exemplary young citizen's release is "incompatible with the welfare of society":

(1) Cook's refusal to register received a great deal of publicity, including front-page stories in Maine dailies and a radio interview. The Board found that Cook deliberately sought this publicity, by which he was trying to exhort other young men to follow his example.

(2) "In his appearance before the Board, Mr. Cook said that upon his release he would want to preach his beliefs."

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What About HIS Summer Vacation?

June is the month when most families begin thinking about a "break," when even in New York City the tempo of life slows a trifle, when the prospect of a couple of weeks in the country or a weekend of sea breezes pull one through long hot city days.

But there are no summer vacations in prison. There are no breaks short of release in the deadening routine of counts, monotonous meals, forced labor and the job of killing time. The unique "charm" of life behind bars is its ironclad regularity. Every day in the year the rising gong sounds at 6:15, the guard comes around to count his charges as they stand by their beds waiting to gulp breakfast. The count, a feature of prison life no visitor sees, perhaps symbolizes this endless monotony. No matter what one may be doing, half a dozen times a day or more the count signal interrupts it; the humans who have become numbers to be tabulated rise, and a guard who sees only the numbers moves by, his lips moving, until for another time the "count O.K." signal is given and prison life moves slowly ahead--to the next count.

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Ray Newton, Chairman Caleb Foote, Executive Secretary

A DUTCH COURT MARTIAL

" . . . if the accused were to perform military service, he would act in serious contradiction with the compelling standards dictated to him by his conscience and that in these circumstances such a line of conduct cannot be reasonably demanded of him . . . "

In previous issues we have digested a number of federal court trials of American C.O.'s. What follows is a significant account of an Army court martial of a conscientious objector in the Netherlands, August 17, 1948.

Three things about this court martial stand out, as we read it with the civil court trials of American C.O.'s in mind. One is the fact that the court refused to limit itself to the specific charge, but also considered the personal, religious and psychological motivation of the defendent before arriving at its decision; American courts refuse to admit any evidence as to motivation before a finding of guilty in C.O. cases, although of course it is freely admitted in murder trials. Second, the finding of "guilty but not punishable" is one that could also be rendered by American judges, but the latter have held to the view that if a C.O. is guilty, he must be punished. Finally, this case was heard by military personnel; the court martial consisted of Major J. C. van Panthaleon, Baron Van Eck, Lt. Colonel J. A. de Witte and Captain A. E. Bueno de Mesquita.

Petrus van Lieshout, age 20, applied to the Minister of War for recognition as a C.O., to be assigned to the alternative civilian labor provided under Dutch conscription law. He was denied recognition and inducted into the infantry. Following are excerpts from the court martial report:

> " . . . the accused is being charged with: that he, being a soldier, on or about 4th May 1948, thus in time of war (with Indonesia), at Roermond, at any rate in Nederland, after his superior Captain P.M. H.A. van Stralen had ordered him to put on a battledress blouse, being a military article of dress, did refuse to obey this military command and that he, after the same superior has expressly pointed out to him that his act would be punishable, did wilfully persist in his disobedience."

After reviewing the defendent's history, the court martial decided that "for a just judgement, especially in matters of this nature where more than anywhere else personal, religious, psychological and similar factors can play an important part, it is necessary that these become prominent during the hearing of the case and that the judge should have complete freedom to judge them independently."

The court martial therefor compiled full information about Van Lieshout, including the report of an Army psychiatrist "that the accused can be considered as fully capable of responsibility for the acts with which he has been charged, and was diagnosed as being a normal personality.

"WHEREAS the Court Martial, in view of the aforementioned information, letters and declarations of witnesses and the accused's own declarations, as also the manner in which, at the session of the court, he made his statement, has gained the conviction that his objections have been actually inspired by the voice of his conscience; that he is very much in earnest about them and has very seriously reflected on them;

"WHEREAS the Court Martial is of the opinion, that if, notwithstanding the objections in question, the accused were yet to perform military service, he would act in serious contradiction with the compelling standards dictated to him by his conscience and that in these circumstances such a line of conduct cannot nor may be reasonably demanded of him;

"WHEREAS in view of the foregoing, the accused must be considered as having committed the act accepted above as proved and there described, driven thereto by force majeure, as meant by Art. 40 of the Code of Penai Law and he is therefore not punishable and should be acquitted of that with which he is charged.

"PRONOUNCING JUSTICE IN THE NAME OF THE QUEEN: The accused is declared guilty of the act above accepted as proved but is not declared punishable in respect thereof. Is acquitted in respect thereof. The order for remand arrest in force against him is countermanded. His immediate release is ordered."

THE COURT REPORTER

I. *Non-Registrants*

In addition to those listed in the last issue, the following have been sentenced for failure to register for Selective Service:

4/20/49 - L. Miliard Hunt and John L. Singletary, 1 year and 1 day, (Macon, Ga.) Judge T. Hoyt Davis
5/ 4/49 - William G. Heusel, 1 year and 1 day, (Lincoln, Nebraska) Judge John W. Delehant
5/ 9/49 - Daniel E. Smith and Vincent T. Smith, 1 year and 1 day, (Ft. Scott, Kansas) Judge Arthur J. Mellott
5/16/49 - Robert Richter, 3 years (Los Angeles, Calif.) Judge William C. Mathes

The following cases are still pending:

ALABAMA: Marvin Rockwell, Howard Rockwell, Wilford Guindon
CALIFORNIA: Robert Cannon
ILLINOIS: Gregory Votaw, Robert Beach, Robert Wixom, Craig Wilder
INDIANA: Rollin Pepper, Gerald Haynes, Amos Brokaw, Richard Shufflebarger, William Wildman, Stephen Simon, Francis Henderson, Charles Frantz, Richard Graves
NEBRASKA: Lorton Heusel
NEW YORK: Wilbur Rippy, Charles Bell, James Neuhauser, Edgar Norton

II. *Men Currently Imprisoned*

The following are the institutions in which C.O.'s are currently incarcerated; while federal censorship limits inmates to 7 correspondents, extra letters are often delivered but may not be answered:

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ACT BEFORE YOUR SUMMER VACATION

(Continued from page 1)

So before you make your break, take YOUR summer vacation, why not strike a blow for freedom–freedom for the C.O.'s now doing their time behind prison bars, freedom for this country from the military emphasis which is responsible for their being there. Even if you work all summer and get only an occasional Sunday–there are not even occasional breaks in prison routine, where never a count is missed.

Here are some concrete suggestions for June action!

1. *Break the curtain of silence:* Most Americans do not know about the peacetime imprisonment of C.O.'s. Like Germans under Hitler, they tolerate this invasion of freedom because of ignorance and apathy. Educate your fellow citizens in your daily conversation with friends and neighbors, in your personal correspondence, in your church and other groups. Write a letter to your paper; see a minister, teacher or business leader and ask him to write.

2. *Let Washington hear about your protest.* Letters or visits from constituents remain a primary means by which Congressmen, Justice Department officials and the President judge the "pulse" of the nation. A number of Congressmen have noted that they are receiving very little mail about C.O.'s; some profess complete ignorance that men are being put and held in prison here for their religious or moral convictions.

3. *If you attend any sort of summer conference,* religious, labor, youth–bring this question up; get resolutions passed demanding an end to the imprisonment of conscience, that we may restore to all Americans the "free exercise of religion."

4. *Know what you're doing.* In addition to the information in *News Notes,* the C.C.C.O. has other literature available, packed with facts and figures to back up your opinions:

Federal Convict 7002–an illustrated leaflet for general distribution that tells, through brief case histories, why men are in prison and who they are. Free in limited quantity, $1.50 per 100 for quantity distribution.

How to get C.O.'s out of Prison (Information Bulletin No. 4)–facts and figures on amnesty, pardon, and parole; figures to show discriminatory parole treatment of C.O.'s. Free.

1776 and All That–a brief anthology of lasting worth, placing today's C.O.'s against the perspective of history. Its inspiring quotes show how men in advance of their time have always opposed unjust laws. Mimeo, 10¢.

Prison and Court Manual–tells what daily life in prison is like, describes some of the problems faced by C.O.'s behind bars. 50¢.

The Larry Gara Case. New bulletins available shortly to publicize the threat to all religious freedom should Gara's conviction for urging another to follow his conscience be upheld on appeal.

5. *Be specific.* Urge concrete action such as: stop the prosecution of C.O.'s, grant a general amnesty to pardon all war objectors, end the discrimination in parole treatment of conscientious objectors (see story at right).

PAROLE AND AMNESTY

(Continued from page 1)

(3) Cook's actions "aroused so much community sentiment that according to the trial officials the wisdom of his return to the home community is very doubtful."

Thus it is quite clear that this insistence of a religious man upon acting and preaching what he believes to be God's will for him is the motivating force which keeps him in prison. The Board disagrees with Mr. Cook, and because he holds unpopular minority beliefs, "the wisdom of his return to the home community is very doubtful" Unfortunately for his freedom, Ralph Cook is not willing to follow the adivce of a portly cleric in a current *New Yorker* cartoon who advises a young minister that the way to preferment "in our calling is to steer clear of two subjects: politics and religion." It is Ralph Cook's Quaker stubbornness that he must preach the religion of love for all men and the politics of opposing military conscription which is responsible for the decision which will keep him behind bars on a Connecticut hilltop for another year.

On its hopeful side, however, this letter might indicate some relaxation of the Board's attitude which might result in paroles for men who have not gotten publicity, or who are not so prone to the objectionable practice of "preaching," or who, by having reached the age of 26, are no longer subject to the draft. The continued pressure upon the Board of Parole (Dr. George G. Killinger, chairman), upon the Attorney General (Tom Clark) and through Congressmen and influential persons will influence this trend.

The fact that Ralph Cook is held in prison for the purpose of keeping him from preaching his religious beliefs should cause strong and widespread protests against such actions subversive of American freedoms.

PAROLE ONLY STOP-GAP

But even at best parole is but a stop-gap; the only "solution" which accords with the interests of justice and restores freedom of religion is a dual program which on the one hand would stop prosecutions and on the other, grant pardons to all war objectors through general amnesty. There is some indication of partial adoption of the first part of this program. The rate of arrests has fallen way off (though this may be pure coincidence) and the prosecution of one Connecticut non-registrant, Robert Bone, was put off reportedly because of Washington instructions to the local D.A. to register Bone by some automatic process.

Langer Urges Amnesty

Although only the President is empowered to grant pardons or an amnesty, there is a move in the Senate to push that process. Senator William Langer (R., N.D.) has introduced Senate Resolution 108, by which "the President is requested to grant pardons to all persons heretofore convicted and sentenced for failure to register or report for service in the military forces as provided in the Selective Service and Training Act of 1940, as amended, and the Selective Service Act of 1948, by reason of their religious convictions." This resolution has been referred to the Armed Services Committee (!), and Senators should be asked to insist that that committee give it a hearing. Senator Langer should also be thanked, and urged to push its adoption.

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A JURY TRIAL IN INDIANA
Quaker Declaration Called "a Disgrace"

Convicted by Indianapolis juries on May 31 and June 1, three Earlham College non-registrants, Francis Henderson, Richard Graves and Charles Frantz are now awaiting sentence for their refusal to register last fall.

Having pled or been found guilty in earlier trials, seven other men are also waiting sentencing, for which no date has been set: Amos Brokaw, Gerald Haynes, Rollin Pepper, Richard Shufflebarger, Stephen Simon, William Wildman, and Armin Saeger. The last name was prosecuted despite his decision to register.

Representative of many of these trials, that of Francis Henderson on May 31 produced a full discussion of the Quaker background for this position and of the conflict between conscience and the state. In these proceedings before Judge Robert C. Baltzell, Henderson was represented by Harrop Freeman of Cornell Law School and Earle Robbins, an Indiana attorney. U.S. Attorney B. Howard Caughran represented the government.

After the jury had been selected and the routine prosecution case had shown that Henderson had refused to register, a fact he never disputed, Harrop Freeman proceeded to develop the defense case that Henderson, a birthright Quaker, had done only what he had to do under his religious convictions.

"Force Majeur"

Freeman contended that Henderson, carrying out the historic peace testimony of the Friends, had acted under "force majeur," and declared that conscience could be such a compelling force upon an individual that it was comparable to a person acting under the threat of a gun pointed in his back.

"Who is to say that another man's religion is wrong," Freeman asked. "Shall I make a Catholic eat meat on Friday, or make a Jehovah Witness salute the flag? Only God is the judge."

To develop the thesis that Henderson was only following the dictates of his religion, a number of witnesses and documents were introduced to illustrate the Quaker teachings by which he had been brought up. It was in this connection that the so-called Richmond declaration, adopted by a called meeting of Friends last July, was introduced and evoked a major controversy.

This declaration calls civil disobedience "under Divine Compulsion an honorable testimony," urges Friends to "support" non-registrants (as well as registrants), and asks them to face the problems raised by war taxes, work in industry producing military supplies, buying war bonds, etc.

This declaration, said U.S. Attorney Caughran, is "a thing of disgrace upon people that would promulgate a doctrine like that and send it out to young people." The philosophy of civil disobedience it endorsed he denounced as un-American.

"Now I have no animosity towards this boy," Caughran declared. "He's a nice chap. I'm just sorry for him. He's had a lot of bad advice, a lot of bad advice. The responsibility obviously rests on the shoulders of some older people who have influenced him."

Of these "older people" who testified in the course of the trial, Merton Scott of the Friends Peace Board of the Five Years Meeting took the most buffeting. Learning that Scott had participated in framing the Richmond declaration and agreed with it, Caughran asked:

"Did your conscience not bother you to participate in sending out such a dangerous document to the world?"

"No, it did not," Merton Scott replied.

"How are you going to defend yourself against attack?" Judge Baltzell interposed. "Suppose they come over and attack your wife?"

"I can't answer ahead of time just what I would do," Merton Scott replied, "but I would attempt to act in accord with the love of God for that individual as well as for myself."

"I can't understand what you're talking about," the judge remarked.

At another point, when Henderson's father was describing the sort of "training" he had given his son, he remarked that he had read to his children stories about the Underground Railroad. Judge Baltzell looked up from his reading to ask: "Who wrote The Underground Railroad?"

RICHTER GETS 3 YEARS· OLDER WOMAN SPEAKS UP

A similar situation in which older persons made a public stand in court in support of non-registrants occurred before Judge William C. Mathes in Los Angeles on May 16. About to pronounce sentence on Robert Richter, the judge attacked the people who kept packing the courtroom to give Richter moral support, and said (according to a newspaper report), "I think the government should go after the persons who are advising you young men not to register."

At this point, Mrs. Eliza Cole of Pasadena rose to ask to make a statement; although denied permission, she went on to state that she was one of those to whom the judge was referring, and in answer to a question gave her name and address. Two other persons who also rose were not allowed to speak. According to the press, U.S. Attorney James M. Carter is investigating Mrs. Cole for possible violation of the Selective Service Act.

Judge Mathes proceeded to sentence Richter to three years imprisonment, but postponed execution of the sentence to May 31 to allow Richter to complete his studies. Three years, most severe of the peacetime sentences accorded non-registrants, is standard procedure in Southern California, where the unique climate apparently has an effect upon some of the inhabitants.

Appeal Funds Needed

Funds are now being solicited to carry an appeal in Richter's case to higher courts. These should be sent to Rev. Glenn Smiley, Room 115, 213 S. Broadway, Los Angeles 12, Calif.

GARA GETS 18 MONTHS; BAIL DENIED

Larry Gara was sentenced to serve an 18 month prison term by Judge Frank L. Kloeb in Toledo on May 6. An appeal was entered immediately, but Judge Kloeb refused to free Gara on bail pending appeal. On June 1, the Circuit Court of Appeals in Cincinnati also refused to grant bail, and as a result Gara will be in prison while his appeal is taken up. He was moved from the Toledo jail to the federal prison at Milan, Mich., on May 26.

In sentencing Gara, Judge Kloeb dwelt at length on his past prison record as a C.O. in World War II. The fact that Gara had protested race segregation and other injustices within prison and had thus been non-cooperative was cited as evidence of lack of mental balance. Also read by the judge were the psychiatric reports about Gara by prison psychiatrists. (In general such reports were notorious for their hostility to C.O.'s.) Judge Kloeb also remarked that if this were war-time, he would have imposed the maximum sentence of five years.

The action of the Circuit Court in also denying bail was apparently based on the contention that no new or substantial issues were raised in the appeal; this despite the fact that Gara's conviction was for supporting another following his own conscience, a new issue under the Selective Service laws.

The sweeping nature of the legal action which convicted Gara is nowhere better illustrated than in the words of the trial judge, printed elsewhere on this page. These words should be taken to heart by all concerned, for under such an interpretation the only safe thing to do, when meeting someone who is violating Selective Service out of religious conviction, is either to run the other way in silence, or to "talk some sense into him." To console him in his difficulties is obviously to support him, and in today's America such consolation is a criminal offense.

CHARGE TO THE JURY

Just before the jury retires to decide the fate of a defendent in a criminal trial, the judge "instructs" the jury as to the law in the case.

When this point came in Larry Gara's trial, Judge Frank L. Kloeb explained to the jurors that "while you are the sole judges of the facts and the credibility of the witnesses, it is incumbent upon you to take the law as the court charges it to you."

Following are excerpts from the instructions given Gara's jury by Judge Kloeb, taken from the official transcript. You will note that by these instructions the Judge was virtually ordering a verdict of guilty, for Gara freely admitted he had supported and encouraged Rickert and had stood by him in his difficulties. Here the judge discusses the meaning of the charge against Gara, and then discusses the claims made by Gara that he was protected by the constitutional guarantees of free speech and free religion:

"To counsel means to advise, to give advice to, to offer an opinion worthy to be followed. The words 'aiding' and 'abetting' are not synonymous. To abet is to encourage, counsel, incite, or instigate the commission of a crime. To aid is to support."

Mere Support Is Violation

"It is the apparent contention of the defendant that he did not counsel, aid or abet Rickert in his refusal to register on September 10, 1948, but merely that he supported him in his attitude after he, Rickert, had decided in his own mind not to register . . . You are instructed that if what the defendant knowingly said to Rickert on the 8th day of November, 1948 (the day of Rickert's arrest), under the circumstances then and there present, was of such a nature that it had a tendency to encourage or cause Rickert to continue his refusal to register under the Selective Service Act of 1948, whether or not it actually had that effect, it would constitute an offense within the meaning of the Act."

Freedom of Religion

"You are instructed that it is the law that although one is not punished in these United States for his religious views and beliefs, yet one may be punished when through external conduct these views are put into practice, if such practice is fraught with clear and present danger to the safety, morals, health or general welfare of the community, and is violative of laws enacted for their protection.

"One is criminally responsible who does an act which is prohibited by a valid criminal statute, though the one who does this act may do it under a deep and sincere religious belief that the doing of the act was not only his right but his duty.

Religious Beliefs Immaterial

"The defendant here is not being tried for his religious beliefs. So far as the issues involved in this case are concerned, his religious beliefs are immaterial. The Constitution of the United States expressly protects freedom of religion . . . Thereby Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order . . . "

Freedom of Speech

"You are instructed that words which, ordinarily and in many places, would be within the freedom of speech protected by the First Amendment, may become subject to prohibition when of such a nature and used in such circumstances as to create a clear and present danger that they will bring about the substantive evils which Congress has a right to prevent.

" . . . The Congress in its wisdom has the right to enact laws which it deems necessary for the public safety, general welfare, or the security and safety of our country, even though by so doing a person's right of free speech is curtailed. In its wisdom Congress has provided what is known as the Selective Service Act of 1948, and in that Act it has specifically said that any person who knowingly counsels, aids or abets another . . . shall, upon conviction, be punished as thereinafter provided. That was and is a prerogative of the Congress, and the right of free speech does not extend to such a point as to permit an individual to knowingly violate the law and then excuse the violation by alleg-

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THE COURT REPORTER

(Continued from page 2)

Federal Correctional Institution, Danbury, Conn.: Ralph Cook, Newton Garver, Paul Cates, Gerald Williams, Harold Flakser, Robert Reuman, William R. Young.

U. S. Penitentiary, Lewisburg, Pa.: Sander Katz.

U. S. Prison Camp, Mill Point, W. Va.: Norman Moody.

Federal Correctional Institution, Milan, Mich.: Charles Rickert.

U. S. Medical Center, Springfield, Mo.: Herbert Standing, Leland Standing, Russell Henderson, David Jensen, David Wyman, Harvey Marshall, Herbert Hoover, Henry Standing, Arlo Tatum, Harold Burnham, Donald Laughlin, Roy Knight, Don Mott, Lawrence Tjossem, Eston Rockwell, Herbert Smith, William G. Heusel; and Austin Regier and David S. Coffman. (The last two were transferred here from the prison in Sandstone which is in the process of being closed.)

Federal Correctional Institution, La Tuna, Texas: Joseph Craigmyle.

U. S. Prison Camp, Tucson, Ariz.: Philip Howard, Arthur Emlen, Atlee Shidler, Walter Coppock, Jr., Gilbert McFadden.

CHARGE TO THE JURY

(Continued from page 5)

ing a reliance upon the First Amendment to the Constitution . . .

"Under These Instructions . . . "

"If you find, under these instructions, beyond a reasonable doubt, that the natural and probable effect of what was knowingly said by the defendant to Rickert on November 8, 1948, was to encourage his resistance to the Selective Service Law by continuing in his refusal to register, whether or not it actually had that effect, you may consider such statements as coming within the intent and meaning of the words, 'counsel, aid and abet.'"

PAROLE AND AMNESTY

(Continued from page 3)

Felons Lose Rights

As conviction of a Selective Service offense is a felony (regardless of length of service imposed in the individual case) and as many states bar felons from voting, public office, and many of the professions licensed by the state, we continue to inflict punishment upon conscience until a pardon is granted.

After the last war, the President appointed an amnesty commission to consider the 15,805 cases of Selective Service violations. This board classified 10,000 of those cases as "wilful" violations, i.e., non-C.O., a classification that cannot be accepted as final. But even among the 5,805 cases remaining, it turned down the idea of an amnesty (a general pardon to a class of offenders) and instead granted only 1,523 individual pardons. The selection of the one-fourth "sheep" from three-fourths "goats" was inexplicable; apparently the Bureau of Prisons recommendations carried great weight. A gross inequality of justice remains until this discriminatory action is wiped out by a general amnesty.

TAX REFUSER FIRED

The Rev. Aleck Dodd, Secretary of Pastoral Relations with the Toledo Council of Churches, was one of 43 pacifists who on March 15 gave notice that they would refuse to pay all or part of their income tax this year as a protest against the nation's expenditure in preparation for war. The Council, on learning that the Revenue Department would put a lien on his salary for the balance of the tax, called Dr. Dodd to a meeting of the Executive Committee and asked him to resign. Since he felt conscientiously unable to do this, he was told that his services would be terminated forthwith. He is supported in his stand by the Toledo Ministers' Association, who issued a strong statement on the theme: "God alone is Lord of the conscience."

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